

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LINDA CHRISTOPHER
296 Goldenridge Drive
Levittown, PA 19057-3417,
Plaintiff,

vs.

CARDWORKS SERVICING, LLC
225 West Station Square Drive
Pittsburgh, PA 15219,
Defendant.

CIVIL ACTION NO.

COMPLAINT

I. INTRODUCTION

1. This is an action for damages brought by a consumer pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. §1692 (‘FDCPA’).
2. The FDCPA prohibits collectors from engaging in deceptive and unfair practices in the collection of consumer debt.
3. Defendant is subject to strict liability for sending a collection letter which violates the provisions of the FDCPA.

II. JURISDICTION

4. Jurisdiction arises under 15 U.S.C. §1692k and 28 U.S.C. §§ 1331, 1337.

III. PARTIES

5. Plaintiff Linda Christopher (‘Christopher’) is a consumer who resides in Levittown, Pennsylvania at the address captioned above.
6. Defendant, CardWorks Servicing, LLC (‘CardWorks’) is believed to be a Delaware company with a principal place of business in Pennsylvania at the above-captioned address.

7. CardWorks regularly uses the mail and telephone to attempt to collect consumer debts alleged to be due another.

8. CardWorks regularly engages in business in the Eastern District of Pennsylvania.

9. CardWorks is a "debt collector" as that term is contemplated in the FDCPA, 15 U.S.C. §1692a(6).

IV. STATEMENT OF CLAIM

10. On January 20, 2010, defendant CardWorks sent plaintiff a communication in connection with a debt allegedly due Merrick Bank. (*See* correspondence from CardWorks attached hereto as Exhibit "A", redacted per Fed. R. Civ. Pro. 5.2).

11. In the January 20, 2010 letter, defendant states:

Please be advised that the Internal Revenue Service (IRS) requires all financial institutions to report to it any cancellation or forgiveness of debt of six hundred dollars (\$600) or more. If the settlement program described above includes the cancellation or forgiveness of debt of \$600 or more, IRS Form 1099C will be provided to you in January after all payments have been made, detailing the debt that has forgiven and the amount that will be reported to the IRS. You may want to contact your tax advisor if you have any questions regarding tax implications.

Exhibit "A":

12. Section 1692e of the FDCPA prohibits a debt collector from making false, deceptive, or misleading statements in connection with the collection of a debt.

13. Section 1692e(10) of the FDCPA prohibits a debt collector from using false representations or deceptive means to collect a debt alleged due.

14. Advising plaintiff that the creditor will be "required" to file a 1099 with the IRS is deceptive and misleading.

15. Section 6050P of the Internal Revenue Code requires that an “applicable entity” report any cancellation or discharge of indebtedness in excess of \$600.00 if, and only if, there has occurred an “identifiable event” described in paragraph (b)(2) of that section.

16. There are also seven exceptions to the reporting requirement set forth in paragraph (b)(3).

17. Here, there is no basis to conclude that an identifying event has or will occur requiring Merrick Bank to file a Form 1099C or that an exception would not apply.

18. The gratuitous reference in a collection letter that a creditor is required to provide information on the consumer to the IRS is a collection ploy which suggests to the least sophisticated consumer that he or she could get in trouble with the IRS for refusal to pay the debt.

COUNT I - FAIR DEBT COLLECTION PRACTICES ACT

19. Plaintiff repeats the allegations contained above as if the same were set forth at length herein.

20. Defendant’s letter violates the Fair Debt Collection Practices Act by making false, deceptive or misleading representations in connection with the collection of a debt by stating circumstances of the issuance of a 1099C form that are deceptive and misleading in violation of §1692e and §1692e(10);

WHEREFORE, Plaintiff Linda Christopher demands judgment against defendant CardWorks Servicing, LLC for:

- (a) Damages;
- (b) Attorney’s fees and costs;
- (c) Such other and further relief as the Court shall deem just and proper.

V. **DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury as to all issues so triable.

Respectfully submitted:

Date: 05/13/10

/s/Theodore E. Lorenz (TEL5114)

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